DOCUMENT #4952

MEMORANDUM SEPTEMBER 23, 1987

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: RICHARD GARVER, ASSISTANT DIRECTOR FOR SPECIAL PROJECTS
LINDA S. BOURQUE, ASSISTANT DIRECTOR FOR NEIGHBORHOOD PLANNING AND ZONING
LARRY KOFF, COORDINATOR FOR INSTITUTIONAL PLANNING

SUBJECT: NEW ENGLAND DEACONESS HOSPITAL: DEVELOPMENT IMPACT PROJECT PLAN

SUMMARY: New England Deaconess Hospital proposes to construct an approximately 253,700 gross square foot medical (inpatient) facility to consolidate and modernize the Hospital's patient care facilities. Approval is sought for a Development Impact Project Plan, for the Director to be authorized to enter into a Development Impact Project Agreement and an Access Plan Agreement and for recommendations concerning the petition to the Board of Appeals for conditional use permits and variances as referenced in the Development Impact Project Plan.

The New England Deaconess Hospital proposes a new in-patient facility to be located on a parcel of land approximately 61,000 square feet in area, bounded by Brookline Avenue, Deaconess Road, Pilgrim Road, Francis Street and other land owned by the Hospital. The new facility is to contain one below-grade and five above-grade levels, and will be connected to the Farr Building, the primary in-patient clinical facility, by glass-enclosed corridors spanning Pilgrim Road. These corridors will allow for circulation of staff, patients and equipment between the Farr Building and the new facility. The main entrance to the Deaconess Hospital will be relocated to the new facility on Deaconess Road, improving the Hospital's visibility and accessibility from Brookline Avenue.

The New England Deaconess Hospital identified the proposed site for the project through a planning process initiated in March 1985, when the Deaconess Hospital commissioned M. Bostin Associates and Payette Associates to undertake a formal facilities master planning study. The study identified the need to replace outmoded diagnostic, surgical and in-patient facilities and consolidate the hospital's programs in a more efficient layout. As a part of this planning effort, extensive site analysis was undertaken to evaluate alternative sites in the Deaconess' Campus area for the new clinical facility. These studies identified several criteria for a potential site, including minimum footprint, proximity to the existing Farr Building facility, flexibility for future development of Deaconess' facilities, and economic feasibility. Direct access between the Farr Building and the proposed new facility was considered imperative because certain essential patient care services would be continued in the Farr Building and be included as well in enlarged facilities the proposed new facility.

In order to provide for the construction of a pedestrian bridge which would permit access between the Farr building and the new structure to be located on an adjacent site located off Brookline Avenue and Deaconess Road, a portion of Pilgrim Road would have to be discontinued. A petition was filed and the Public Improvement Commission voted to approve the discontinuance petition for a portion of Pilgrim Road on September 10, 1987. The discontinued portion will be maintained as a paved walkway and landscaped open pedestrian area. Pilgrim Road is a one-way street within the Deaconess Campus, the upper portion of which between Longwood Avenue and Brookline Avenue was discontinued several years ago by petition of the Winsor School. The remainder of Pilgrim Road is now used primarily by people travelling to and from Deaconess' buildings.

The proposed in-patient facility will require the Deaconess Hospital to seek conditional use permits and variances from the Board of Appeal. The project site is located within H-2 and L-1 zoning districts. Conditional Use permits will be sought for hospital, accessory clinic, professional office and other accessory uses. Variances will be requested from Floor Area Ratio violations; a maximum FAR of 4.5 is proposed, building height; a maximum height of 80 feet is proposed, as well as various other related dimensional violations. Authority staff have reviewed the siting and conceptual design of the project. The proposed building mass is consistent with adjacent recent development along Brookline Avenue. The design staff supports the granting of the variances subject to design review.

As required under Articles 26A and 26B of the Boston Zoning Code, the New England Deaconess Hospital will enter into a Development Impact Project Agreement with the Authority and the Neighborhood Housing Trust and Neighborhoods Jobs Trust to make a Housing Contribution Grant estimated to be $768,500 and a Jobs Contribution Grant estimated to be $153,700.

Because scoping of the project is subject to revision in the course of the Determination of Need review, Deaconess will file a Schematic Design submission to the Boston Civic Design Commission once the Massachusetts Department of Public Health approval has been obtained for the project. Deaconess filed for Determination of Need approval on September 1, 1987. Deaconess intends to continue to work closely with the Authority's staff and the Boston Civic Design Commission in development of the schematic design. The Development Impact Project Plan for the Project contains the requirement of satisfactory schematic design and final design review by the Authority and the Boston Civic Design Commission.

The traffic and parking impacts and actions to mitigate these impacts have been identified by the hospital and reviewed by the Authority and City Transportation Department staff. The analysis and proposed actions are incorporated into the Transportation Access Plan and Access Plan Agreement and the Agreement with the Public Improvement Commission and Transportation Department. Commitments by Deaconess include the following:

1. Make land available to the City to construct an additional southbound land on Brookline Avenue between Deaconess Road and Francis Street and to pay the costs of construction such lane;

2. Relocate Deaconess' main campus supply and warehousing center, currently located on Brookline Avenue between Deaconess Road and Francis Street, reducing tractor trailer and other direct delivery traffic on Brookline Avenue.

3. Propose and cooperate in supporting a prohibition on left turns from Deaconess Road onto Brookline Avenue.

4. Propose and cooperate in support of making Pilgrim Road two-way northerly of Joslin Place in order to provide an additional route for traffic north and west to the Pilgrim Street Garage, and the Riverway;

5. Continue an existing employee program to subsidize the cost of MBTA passes; and

6. Establish a construction management plan in cooperation with the Transportation Department.

7. Provide for up-dating of the Transportation Access Plan in connection with schematic design approval.

8. Since no additional parking is provided, continue working with Masco and the City on the preparation of a parking strategy acceptable to the Authority and the City Transportation Department.

Deaconess held public meetings sponsored by Masco with representatives of citizens groups on July 22, 1987, and July 29, 1987. The meetings were advertised well in advance and no opposition was expressed. On August 12, 1987, the Institutional Expansion Board favorably reviewed the project.

We therefore recommend that the Boston Redevelopment Authority approve the Development Impact Project Plan as presented.

Appropriate votes follow:

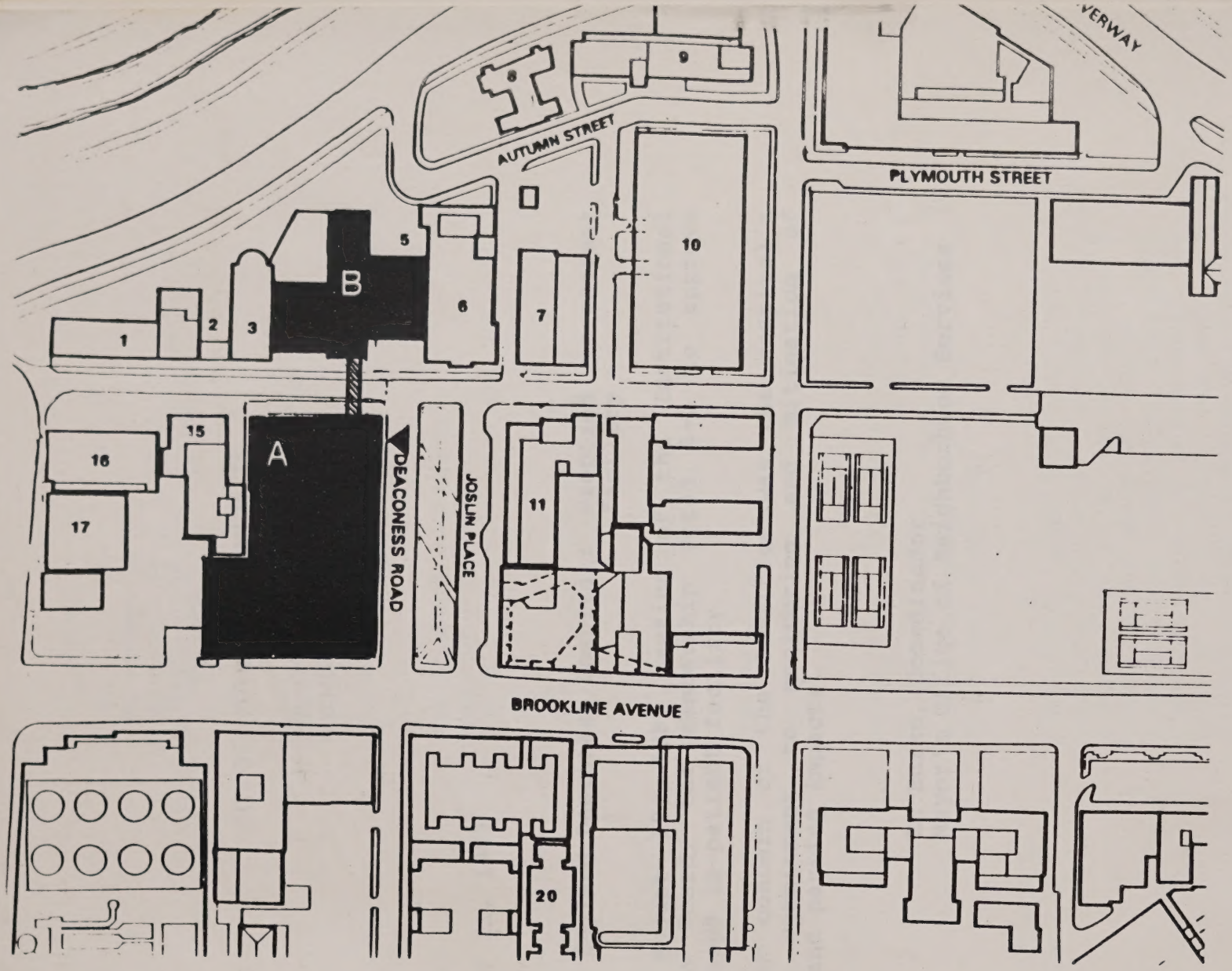
VOTED: That in connection with the Development Impact Project Plan for The New England Deaconess Hospital Brookline Avenue In-patient facility in the Longwood Medical area of Boston, presented at a public hearing duly held at the offices of the Authority on September 23, 1987, and after consideration of the evidence presented at that hearing, the Boston Redevelopment Authority finds that said Plan: (1) conforms to the general plan for the City of Boston as a whole; (2) contains nothing that will be injurious to the neighborhood or otherwise detrimental to the public welfare; and (3) does adequately and sufficiently satisfy all other criteria and specifications for a Development Impact Project Plan as set forth in Articles 26A and 26B of the Boston Zoning Code as amended; and further

VOTED: That pursuant to the provisions of Article 26A and 26B of the Boston Zoning Code as amended, the Boston Redevelopment Authority hereby approves the Development Impact Project Plan for the New England Deaconess Brookline Avenue In-patient facility. Said Development Plan is embodied in a written document entitled "Development Impact Project Plan for New England Deaconess New Clinical Facility" dated September 23, 1987, and in a series of pre-schematic drawings listed as Exhibit B in said document; said document and plans shall be on file in the office of the Director of Zoning of the Authority; and further

VOTED: That the Authority hereby authorizes the Director to execute, in the name and on behalf of the Authority, a Development Impact Project Agreement, in substantially the form attached hereto, a Transportation Access Plan Agreement, in substantially the form attached hereto, and other necessary agreements with the New England Deaconess Hospital, and to certify in the name of the Authority that plans submitted to the Inspectional Services Commissioner in connection with said project are in conformity with said Development Impact Project Plan and that the developer has entered into an Agreement with the Authority to be responsible for the Housing Contribution and a Jobs Contribution Grant.

and further

VOTED: That in reference to a petition to be brought before the Board of Appeal by New England Deaconess Hospital for conditional use permits and variances as referenced in the Development Impact Project Plan, which is approved by the Authority today, the Boston Redevelopment Authority recommends approval, provided that, on a approval of a Determination of Need by the Massachusetts Department of Public Health, the Deaconess Hospital makes submissions for Authority approval required by the Authority's Development Review Procedures, including Schematic Designs, Design Development Designs, Final Plans, and environmental studies.



SITE PLAN

A. NEW PATIENT FACILIT

B. EXISTING PATIENT FACIL

HOSPITAL DROPOFF AI

Building Key

1 PALMER	11 JOSI
2 COMPUTER	
3 BAKER	
4 FARR	14 STOR
5 CHAPEL	15 C R I
6 DEACONESS	16 MEIS
7 MAINTENANCE	17 OVER
8 RIVERWAY	18 PARK
9 KENNEDY	19 LOWI
10 PARKING	20 SHIEI

CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
RAYMOND L. FLYNN

September 21, 1987

Re: New England Deaconess Hospital: Proposed in-patient facility

At the August 12, 1987 meeting of the Institutional Expansion Board, the membership voted 6-0 to approve the proposed in-patient facility.

The major concern of the Committee was the hospital's on-going commitment to monitoring and mitigation of traffic and parking impacts.

Ed Burke, Coordinador
Mayor's Office of Neighborhood Services

BOSTON REDEVELOPMENT AUTHORITY

Fact Sheet

New England Deaconess Hospital

New Clinical Facility
Deaconess Road, Boston

DEVELOPER	New England Deaconess Hospital Corporation 185 Pilgrim Road, Boston, MA 02215
ARCHITECTS AND PLANNERS	Payette Associates, Inc. 40 Isabella Street, Boston, MA 02116
MEDICAL PLANNING CONSULTANT	M. Bostin Associates
ENVIRONMENTAL CONSULTANT	HMM Associates
TRAFFIC CONSULTANT	Abend Associates
DESCRIPTION OF SITE	A parcel of land approximately 61,000 square feet in area, bounded generally by Brookline Avenue, Deaconess Road, Pilgrim Road, and other land of New England Deaconess Hospital.
DESCRIPTION OF PROJECT	Five-story (plus basement) patient care facility, approximately 253,700 gross square feet in area, containing a consolidated surgical suite, a consolidated radiology suite, and approximately 139 replacement beds. As a part of the project, the main entrance to the Deaconess Hospital will be moved to Deaconess Road. A portion of the ground floor level along Brookline Avenue will be devoted to commercial uses.
PROJECTED NUMBER OF EMPLOYEES	New England Deaconess Hospital estimates that approximately 20-30 additional jobs created in the new facility, in addition to approximately 500 jobs which will be created during the construction period.

Deaconess is committed to comply with equal employment opportunity plans.

LINKAGE

Development Impact Project Contribution (estimate)	$768,500
Jobs Contribution (estimate)	$153,700
TOTAL (estimate)	$922,200

ADDITIONAL PUBLIC BENEFITS

Deaconess is willing to make land or rights in land available to the City to permit widening of Brookline Avenue between Deaconess Road and Francis Street in connection with the Project. Additional open space will be created in the Deaconess campus area. Other public benefits are addressed in the Development Impact Project Plan.

ZONING DEVIATIONS REQUIRED

Conditional Use Permits:

Hospital and accessory clinic and professional offices, and other accessory uses

Structural change to non-conforming building

Variances:

Floor area ratio - 2.0/1.0 required (parcel in 2 zoning districts); max. 4.5/max. 3.5 provided

Height of building - 35'/3 stories required; 80'±/5 stories provided

Yard on Deaconess Road - 20'/10' required; 0± provided

Yard on Brookline Avenue - 10' required; 0± provided

Side Yards - 10 + 1/20 times length of parallel wall required; 0± provided (glass connecting corridors to be constructed in portion of required side yard)

Rear Yard - 30'/20' required; 0± provided

Setback of Parapet - 29'+ required; 0± provided

P&D Draft 9/10/87

BOSTON REDEVELOPMENT AUTHORITY

_____, 1987

Development Impact Project Plan

for

New England Deaconess Hospital

New Clinical Facility

Developer and Owner: New England Deaconess Hospital Corporation, 185 Pilgrim Road, Boston, Massachusetts (the "Hospital").

Architect: Payette Associates, Inc., 40 Isabella Street, Boston, Massachusetts, or such other architects as may be designated by the Hospital.

General Description of Project and Project Site: The Hospital proposes to construct a medical facility to function primarily as an extension of the Farr Building, the main inpatient care facility on the Deaconess campus. The new facility will be located directly across Pilgrim Road from the Farr Building on a parcel of land of approximatley 61,000 square feet in area, bounded by Deaconess Road, Brookline Avenue, Pilgrim Road, and other land owned by the Hospital. The site is more particularly described on Exhibit A attached hereto. The new facility and the land upon which it will be constructed are referred to as the "Project".

The Project is expected to contain approximately 253,700 square feet of gross floor area (unless otherwise indicated, all building square footages referred to herein are gross floor areas as defined in the Boston Zoning Code). The Project will include installation of glass-enclosed corridors crossing Pilgrim Road and connecting the new facility to the existing Farr Building. There will be limited renovation of the existing Farr Building to integrate and connect it with the new facility. A Hospital administration building, a one-story commercial building on Brookline Avenue, and a doctors' parking area will be demolished to make way for the Project.

Employment Plans: It is anticipated that the Project will create about 500 construction-related jobs. At least one month prior to the issuance of a building permit for the Project, the Hospital will submit to the Boston Redevelopment Authority (the "Authority") a Boston Residents Construction Employment Plan, intended to satisfy the requirements of the Mayor's Executive Order Extending the Boston Residents Jobs Policy dated July 12, 1985, and the requirements of the Ordinances Establishing the Boston Employment Commission set forth in Chapter 12 of the Ordinances of 1986, as amended by Chapter 17 of the Ordinances of 1986. The Hospital will also formulate an Employment Opportunity Plan, providing for the Hospital's good faith efforts to achieve a goal that 50% of permanent employment opportunities created by

the Project shall be made available to Boston residents, as more fully described in, and subject to, the DIP Agreement hereinafter referred to.

Development Impact Project Contribution: The Project is a "Development Impact Project" under the Boston Zoning Code (the "Zoning Code") and, as required thereunder, the Hospital will enter into a Development Impact Project Agreement with the Authority for the Project (the "DIP Agreement"). Under the DIP Agreement, the Hospital shall be responsible for making a Development Impact Project Contribution (the "DIP Contribution") with regard to the Project. The DIP Contribution shall be made, at the Hospital's option, by (i) the grant and payment by the Hospital of a sum of money, payable at the times and in the manner and under the conditions specified in the DIP Agreement (referred to in Section 26A-2 of the Zoning Code as the "Housing Contribution Grant" but payable at the rate set forth in Section 26A-3(2)(a) of the Zoning Code), (ii) the creation by the Hospital of low and moderate income housing units at a cost at least equal to the amount of the Housing Contribution Grant and under the conditions specified in the DIP Agreement (referred to in said Section 26A-2 as the "Housing Creation Option"), or (iii) a combination of items (i) and (ii) above. Should the Hospital's obligation with regard to the DIP Contribution be satisfied solely in the form of a Housing Contribution Grant, total payments from the Hospital are estimated to be approximately $768,500, calculated as follows:

Total Estimated Gross Square Footage of Uses Enumerated in Table D of Article 26A of the Zoning Code	253,700
Less Exemption	100,000
Net Gross Square Footage for Purposes of Payment	153,700
	x $5
Total Estimated Housing Contribution Grant:	$768,500

Jobs Contribution Grant: As required under Section 26B-3 of the Zoning Code, and as required under the terms of the DIP Agreement, the Hospital shall also be responsible for making a Jobs Contribution Grant with regard to the Project, in the manner and under the conditions specified in the DIP Agreement. The Jobs Contribution Grant will equal approximately $153,700, calculated as follows:

Total Estimated Gross Square Footage of Uses Enumerated in Table E of Article 26B of the Zoning Code	253,700
Less Exemption	100,000
Net Gross Square Footage for Purposes of Payment	153,700
	x $1
Total Estimated Jobs Contribution Grant:	$153,700

Estimated Construction Time: The construction of the Project has an expected duration of approximately ___ months from the start of construction.

Permitted Uses: The Project may be used for the following uses: hospital, clinics, professional offices, and incidental uses and services in connection with the above uses (such as gift shop,

Exhibit B

Description of Site

restaurant and snack bar, waiting areas, mechanical, administrative and storage space and similar uses) for the convenience of patients, visitors and staff. The Project will also include commercial (primarily retail) space on the portion of the Project site fronting on Brookline Avenue.

Proposed Location and Appearance of Structures: The location and appearance of the Project shall generally conform with the plans prepared by the Architect listed on Exhibit B attached hereto. Such plans are subject to further design development, review and refinement and are hereby incorporated herein by reference and are referred to herein as the "Plans". The Project is to function primarily as an extension of the Farr Building, the main inpatient care facility on the Deaconess campus. The new facility will fill essentially the entire lot on which it is to be located and will be connected to the Farr Building at all levels. The main entrance to the Hospital will be relocated to the new facility along Deaconess Road.

The exterior of the building will be primarily of concrete and brick construction. The glass-enclosed corridors will be constructed of clear glass with a minimum of structural elements. The corridors at the first two levels will be equipped with sliding doors on each side to allow fire apparatus to pass through in the event of an emergency.

Although the layout of the departments within the new inpatient facility has not be finalized and may be subject to change, the Hospital anticipates that the general layout of programs within the new inpatient facility will be as follows:

1. The basement floor will contain storage and supply space and mechanical equipment.

2. Level One will contain the new main entrance to the Hospital from Deaconess Road, an admitting department, and a coffee and gift shop.

3. Level Two will contain an X-Ray department which will function in conjunction with a new cardiovascular department on the second level of the existing Farr Building.

4. Level Three will contain ambulatory and inpatient surgery areas.

5. Level Four will contain intensive care and acute care beds with support services such as a pharmacy and laboratory.

6. Level Five will contain medical surgical acute care beds.

The presently anticipated layout of departments is shown on the Plans; however, the Plans shall not be deemed to restrict the Hospital as to lay-out or other matters within the Project.

Proposed Location and Appearance of Open Spaces and Landscaping: The Project will occupy virtually the entire site and is adjoined by sidewalks along Brookline Avenue and Deaconess Road. One of the design goals of the Project is to increase the quality and appearance of the Hospital's campus. The portion of Pilgrim Road

to be discontinued will be extensively landscaped, so as to create an open pedestrian mall area on both sides of the glass corridors spanning Pilgrim Road. The pedestrian mall will include a walkway constructed out of paving materials suitable to allow for the passage of fire appartus in emergencies.

The Hospital entrance will be relocated to Deaconess Road, requiring the construction of appropriate curb cuts and a turn off lane from Deaconess Road. The new entrance area will also be landscaped with materials consistent with the adjacent Joslin Park.

The southbound side of Brookline Avenue between Deaconess Road and Francis Street will be widened to permit the easier flow of traffic. The existing deteriorated commercial space fronting on Brookline Avenue will be replaced with new modern commercial space. The surrounding sidewalks and walkways will be paved and landscaped in a manner consistent with those used on Deaconess Road and Pilgrim Road.

Densities: The Project Site is located partially within H-2 and L-1 zoning districts. The floor area ratio for the Project will not exceed 4.5 (calculated as provided in the Zoning Code) for the portion of the site within the H-2 zoning district, and will not exceed 3.5 for the portion of the site within the L-1 district.

Proposed Traffic Circulation: Vehicular and pedestrian access to the main entrance of the new facility will be located on Deaconess Road. The Hospital has agreed to make land available to the City of Boston to construct an additional southbound lane between Deaconess Road and Francis Street. The Hospital has also proposed a prohibition of left turns from Deaconess Road onto Brookline Avenue. The combination of these measures is expected to allow vehicles stopping at the new Hospital entrance to travel smoothly along Deaconess Road onto Brookline Avenue. In addition, the Hospital proposes to make the remaining portion of Pilgrim Road a two-way route in order to provide an alternative route for traffic heading north and west to the Pilgrim Street Garage, Longwood Avenue and the Riverway. Further details of the proposed traffic circulation associated with the Project are provided in the Transporation Access Plan (the "Access Plan") prepared for the Hospital by Abend Associates.

Proposed Parking Facilities: Because the Project will not increase the number of patient beds and primarily involves the construction of replacement space, the Project will not include any additional parking.

Proposed Loading Facilities: The Hospital will be relocating its bulk storage and warehousing facilities to an off-site location. Routing deliveries will be made at off peak hours by shuttle van to a loading area attached to the new facility off Brookline

Avenue. Most direct tractor trailor deliveries to the Hospital's medical facilities will be eliminated and redirected to the off-site warehouse.

Access to Public Transportation: The following facilities of the Massachusetts Bay Transportation Authority serve the Project:

- Arborway Branch of the Green Line, running from Park Street to Forest Hills with a stop at Longwood Avenue.
- Riverside Branch of the Green Line, running from Lechmere Square, Cambridge, to Riverside Station, Auburndale. The Longwood stop of this branch of the Green Line is about one-half mile from the Project Site.
- Orange Line and commuter rail, stopping at the Ruggles Station about three to four miles from the Project.
- Bus Route No. 60, running from Chestnut Hill, Newton, to Kenmore Square, with a stop on Brookline Avenue.
- Bus Route 65, running from Brighton Center to Kenmore Square, with a stop on Brookline Avenue.
- Bus Route 66, running from Dudley Station on the Orange Line to Union Square, Allston, with a stop at Brigham Circle.
- Bus Route No. 47, running from City Hospital to Cambridge with stops on Longwood Avenue.

In addition, the MBTA operates, under contract with the Town of Brookline, a minibus line which loops through Brookline and crosses over into the Longwood Medical Area, with a stop at Pilgrim and Francis Streets. The Hospital offers its employees MBTA passes at a 25% discount. MASCO offers a computerized

carpool matching service and provides shuttle transportation, subsidized by the Hospital, from its four parking sites in the area. MASCO also provides minibus service to the Longwood Medical Area from Harvard Square.

Proposed Dimensions of Structures: The dimensions of the structures included in the Project are shown on the Plans.

Design Review: The Authority requires submission of design drawings for review and approval at three phases in the design review process in accordance with submission requirements normally followed by the Authority:

a. Schematic Design Drawings;

b. Design Development Drawings and Outline Specifications; and

c. Working Drawings and Final Specifications.

Authority staff members have approved the concept and basic parameters of the Project design. Because a Determination Of Need from the Massachusetts Department of Public Health is required prior to finalization of the Project design, Schematic Design Drawings have not been completed. The design and dimensional parameters of the Project as approved by the Authority will be subject to modification as the result of continuing design review. Schematic Design Drawings, Design Development Plans and Working Drawings and Final Specifications approved by the Authority shall be conclusively deemed to be in conformity with this Development Impact Project Plan.

Boston Civic Design Commission: The Project is subject to Article 28 of the Boston Zoning Code, requiring review by the Boston Civic Design Commission. Copies of the Schematic Design Drawings for the Project will be submitted to the Commission for review pursuant to said Article 28 as they are completed by the Architect.

Environmental Review: On _____, 1987, the Hospital submitted an Environmental Notification Form for the Project to the Secretary of Environmental Affairs. The Secretary responded, by letter dated _____, 1987, that _____. A copy of the letter is attached hereto as Exhibits C.

The Hospital has independently engaged in a substantial environmental review of the Project. This review has resulted in the following reports, copies of which have been supplied to Authority staff:

a) Transportation Impact Study & Access Plan, New England Deaconess Hospital, Boston, Massachusetts dated _____ by Abend Associates.

b) The following prepared by HMM Associates, Inc. with respect to the Project:

_____.

Zoning: The Project site is located partially within H-2 and L-1 Zoning Districts. It is also located within the Institutional Overlay and Restricted Parking Districts. The Hospital will likely seek conditional use permits and variances for the following matters:

Conditional Use Permits:

Hospital and accessory clinic and professional offices, and other accessory uses.

Structural change to non-conforming building (the addition of glass-enclosed corridors to existing Hospital facility).

Variances:

Floor area ratio - 2.0(H-2)/1.0(L-1). required; max. 4.5(H-2)/max. 3.5(L-1) provided.

Height of building - 35'/3 stories required; 80'±/5 stories provided.

Yard on Deaconess Road - 20'(H-2)/10'(L-1) required; 0± provided.

Yard on Brook;line Avenue - 10' required; 0± provided

Side Yard on Pilgrim Road (proposed to be discontinued) - 10 + 1/20 times length of parallel wall required; 0± provided (glass connecting corridors to be constructed in portion of required side yard).

Rear Yard - 30'(H-2)/20'(L-1) required; 0± provided.

Setback of Parapet - 29'+ required: 0± provided.

Legal Information: The entire Project site is owned and controlled by the Hospital, except that the proposed glass-enclosed corridors connecting the new facility to the existing Farr Building will cross Pilgrim Road. The fee title to Pilgrim Road is owned by the Hospital, but, as of the date of this Plan, is subject to an easement for use as a public street. The Hospital's petition for the discontinuance of Pilgrim Road is pending before the Public Improvement Commission of the City of Boston. There are no legal judgments outstanding or other actions pending which involve the Project.

Impacted Neighborhood: The neighborhood or neighborhoods adjacent to the Project Site, for purposes of Section 26A-2(3)(c) and Section 26B-2(3)(b) of the Zoning Code, for which 20% of the Housing Contribution and Jobs Contribution are reserved, are described on Exhibit D hereto.

List of Exhibits

Exhibit A - Description of Project site

Exhibit B - List of Plans

Exhibit C - _____, 1987 letter from Secretary of Environmental Affairs

Exhibit D - Impacted Neighborhoods

EXHIBIT A

Project Site Description

EXHIBIT B

List of Plans

The following plans have been prepared by Payette Associates, Inc. These drawings are preliminary, i.e. prior to formal Schematic Design Development. The following is a list of the "pre-schematic proposal" and contains the following drawings:

a. Site Work/Demolition Plan
b. North/South Section
c. Elevation - Links over Pilgrim Road
d. North and West Elevations
e. Basement Floor
f. First Floor
g. Second Floor
h. Third Floor
i. Fourth Floor
j. Fifth Floor

These plans are similar to those that have been included in the Determination of Need application filed with the Massachusetts Department of Public Health on September 1, 1987. To the extent, if any, that matters shown on later dated plans do not appear on earlier dated plans or conflict therewith, the later dated plans control. The gross floor area of the Project as set forth elsewhere in this Development Plan and its Exhibits is subject to final certification by the Project Architect.

EXHIBIT C

[Letter from Secretary of Environmental Affairs]

EXHIBIT D

IMPACTED NEIGHBORHOOD

The Impacted Neighborhood, for purposes of sections 26A-2(3)(c) and 26B-2(3)(b) of the Boston Zoning Code, is the area in Boston bounded as follows:

DEVELOPMENT IMPACT PROJECT AGREEMENT

for

New England Deaconess Hospital
New Clinical Facility

THIS AGREEMENT dated as of _____, 1987, among the BOSTON REDEVELOPMENT AUTHORITY (the "BRA"), a body politic and corporate created pursuant to Chapter 652 of the Acts of 1960, as amended, on its own behalf and as escrow agent for the NEIGHBORHOOD JOBS TRUST (the "Jobs Trust") contemplated by Article 26B of the Boston Zoning Code (the "Zoning Code") and hereafter to be created, and the NEW ENGLAND DEACONESS HOSPITAL CORPORATION (the "Hospital"), a charitable corporation organized under Chapter 180 of the General Laws of Massachusetts, having an address at 185 Pilgrim Road, Boston, Massachusetts 02115.

W I T N E S S E T H:

WHEREAS, the Hospital proposes to construct a medical facility (the "Project") which will function as an extension of its Farr Building inpatient clinical facility, on a parcel of land bounded by Brookline Avenue, Deaconess Road, Pilgrim Road, Francis Street and other land owned by the Hospital in Boston, as more particularly described on Exhibit A attached hereto;

WHEREAS, the Project constitutes a "Development Impact Project" as defined in Articles 26A and 26B of the Zoning Code;

WHEREAS, pursuant to the Hospital's application and in accordance with Articles 26A and 26B of the Zoning Code, the BRA has approved on _____, 1987, after notice published in the Boston Herald on _____, 1987, and after a public hearing held on _____, 1987, a Development Impact Project Plan for the Project (the "DIP Plan"); and

WHEREAS, The Neighborhood Housing Trust (the "Housing Trust") referred to in Article 26A of the Zoning Code has been created by Declaration of Trust dated November 19, 1985, pursuant to an Ordinance Establishing The Neighborhood Housing Trust passed by the Boston City Council on May 21, 1986 and approved by the Mayor on June 6, 1986, and the Jobs Trust referred to in Article 26B of the Zoning Code has not yet been created;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. Development Impact Project Plan. The BRA hereby acknowledges approval of the DIP Plan for the Project, as voted by the BRA on _____, 1987. The Hospital intends to proceed with the Project, subject to issuance by the Massachusetts Department of Public Health of a satisfactory Determination of Need for the Project, and subject to any circumstances not currently anticipated by the Hospital. If

the Hospital does proceed with the Project, it hereby agrees to do so in accordance with the DIP Plan.

2. Linkage Contribution. The Hospital shall be responsible, in accordance with the terms of this Agreement, for a Development Impact Project Contribution, as such term is defined in Section 26A-2(3) of the Zoning Code as in effect on the date of this Agreement, for the Project (the "Linkage Contribution"), in the amounts calculated in accordance with Section 3 of this Agreement. The Hospital may, at its option, satisfy its obligation for the Linkage Contribution, in whole or in part, by making money payments in accordance with Sections 3 and 4 of this Agreement, or by contributing to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston in accordance with Section 5 of this Agreement.

3. Calculation of Linkage Contribution. The gross floor area (calculated pursuant to Section 2-1(21) of the Zoning Code) of the Project devoted to uses enumerated in Table D of Section 26A-3(2)(a) as in effect on the date hereof is expected to be approximately 253,700 square feet. On the basis of this figure, the amount of the Linkage Contribution (computed at $5.00 per square foot, and after subtracting the 100,000 square foot exemption) is estimated to be approximately $768,500. The parties acknowledge that the amount of the Linkage Contribution stated above is based upon the estimated gross floor area for the Project. If the gross

floor area, as defined in Section 2-1(21) of the Zoning Code (as in effect on the date hereof) and as certified by the Project Architect, for the Project as actually constructed differs from the above-stated estimate, this Agreement shall be amended to adjust the amount of the Linkage Contribution in accordance with Article 26A of the Zoning Code as in effect on the date of this Agreement.

4. Housing Contribution Grant. To the extent the Hospital shall elect to satisfy its responsibility for the Linkage Contribution by money payments, the Linkage Contribution shall be paid to the Collector-Treasurer of the City of Boston as custodian pending acceptance of such payments for the Housing Trust by the City. According to Section 26A-4 of the Zoning Code, the rate of payment of the Linkage Contribution set forth in Section 26-2(3)(a) of the Zoning Code will apply to the Project. Accordingly the "Payment Date" for the Project shall be the earlier of (i) the date of issuance of a final Certificate of Occupancy for the Project or (ii) the date twenty-four (24) months after the date of issuance of a building permit with respect to the Project. Payment of the Linkage Contribution shall be made in twelve (12) equal, annual installments, the first of which shall be due on the Payment Date; subsequent installments shall be due and payable without interest on the succeeding eleven (11) anniversary dates of the Payment Date. The Authority hereby agrees that delivery of such payments to the Collector-Treasurer consti-

tutes full satisfaction of the Applicant's obligation to make the Linkage Contribution.

5. Housing Creation Option. To the extent the Hospital shall elect to satisfy its responsibility for the Linkage Contribution by contributing to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston, the Hospital shall submit a proposal in writing to the BRA on or before the Payment Date, describing the number, location, cost and design of the housing units. The proposal shall be subject to approval by the BRA after public notice and hearing in accordance with applicable provisions of the Zoning Code as in effect on the date hereof.

6. Jobs Contribution Grant. The Hospital shall be responsible, in accordance with the terms of this Agreement, for a Jobs Contribution Grant (hereinafter the "Jobs Contribution") as such term is defined in Section 26B-2(3) of the Zoning Code as in effect on the date of this Agreement. The Jobs Contribution shall be paid to the Collector-Treasurer of the City of Boston as custodian, pending acceptance of such payments for the Jobs Trust by the City. The Authority hereby agrees that delivery of such payments to the Collector-Treasurer constitutes full satisfaction of the Hospital's obligation to make the Jobs Contribution. The parties expect that the gross floor area of the Project devoted to uses enumerated in Table E of Section 26B-3 of the Zoning Code as in effect on the date hereof, will be approximately 253,700

square feet. Accordingly the expected Jobs Contribution will be approximately $153,700 (253,700 s.f. minus 100,000 s.f. exemption x $1.00 per gross square foot). If the gross floor area, as defined in Section 2-1(21) of the Zoning Code (as in effect on the date hereof) and as certified by the Project Architect, for the Project as actually constructed differs from the above-stated estimate, the Hospital shall adjust the amount of the Jobs Contribution in accordance with Article 26B of the Zoning Code (as in effect on the date of this Agreement) to reflect the actual gross floor area. The Jobs Contribution shall be made in two (2) equal installments, the first of which shall be made on the issuance of the building permit for the Project and the second without interest one year later.

7. Waiver of Linkage and Jobs Contribution. If a building permit is not granted for the Project, or any part hereof, or if construction of the Project, or any part thereof, is abandoned after a building permit is obtained, or if a building permit for the Project, or any part thereof, is revoked or lapses and is not renewed, then the Hospital shall have no responsibility for the Linkage Contribution or the Jobs Contribution with respect to the Project (or the part thereof in question, as the case may be) and any installments on account of the Linkage Contribution and the Jobs Contribution already made by the Hospital shall be refunded to the Hospital in whole (or in part, as the case may be).

8. Parties Liable. The BRA agrees that the Hospital and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to the Project only while it or any successor in interest, as the case may be, is owner of the Project. The BRA further agrees to look solely to the Hospital's interest in the Project for any claim arising under this Agreement. Neither the Hospital nor any trustee, officer, director, agent or employee of the Hospital, or its successors in interest, shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Project. No holder of a mortgage on the Project shall be liable to perform, or be liable in damages for failure to perform, any of the obligations of the Hospital hereunder unless and until such holder acquires title to the Project by foreclosure or deed in lieu of foreclosure.

9. Change in Method of Determining Linkage and/or Jobs Contribution. The BRA agrees that, subject to the recalculation provisions contained in Sections 3 and 6 of this Agreement, any change in the formula (amount or rate of payment) for the calculation as set forth in Sections 26A-3(2) or 26B-3(1) of the Zoning Code, or other change in the determination of the Linkage Contribution or the Jobs Contribution, shall not in any way increase the Linkage

Contribution or the Jobs Contribution set forth in this Agreement.

10. Satisfaction of Zoning Code Requirements. The BRA acknowledges that by the signing of this Agreement the Hospital will have satisfied the requirements of Articles 26, 26A and 26B of the Zoning Code insofar as satisfaction of the requirements of those Articles is a precondition to the granting, allowing or adopting of variances, conditional use permits or exceptions with respect to the Hospital's development of the Project.

11. Amendment of Agreement. If the parties desire hereafter to amend this Agreement, such amendment shall be in writing and executed by the parties hereto.

12. Governing Law, Etc. This Agreement shall be governed by Massachusetts law, sets forth the entire agreement among the parties as to the subject matter hereof, and is binding upon and inures to the benefit of the parties and their successors, assigns and legal representatives, notwithstanding any subsequent amendment or repeal (or court decision having the effect of amendment or repeal) to or of the "linkage policies" of the City of Boston as incorporated in Articles 26A and 26B of the Zoning Code.

13. Other Exactions. If the City of Boston should hereafter impose, assess or levy any excise or tax upon the Project, the proceeds of which are dedicated, in whole or in part, to the establishment of a fund or funds for purposes

similar to the purposes recited in Sections 26A-1 or 26B-1 of the Zoning Code, amounts paid or payable hereunder by the Hospital shall be credited against such excise or tax; provided, however, that if such crediting shall not be legally permissible to satisfy payment of such tax or excise, the obligations of the Hospital hereunder shall, to the extent of the amount of such tax or excise, thereupon cease and be of no further force and effect.

14. Boston Residents Construction Employment. The Hospital shall formulate and submit to the BRA, at least one month prior to the issuance of the building permit for the Project, a Boston Residents Construction Employment Plan which sets forth in detail the Hospital's plans to ensure that its general contractor, and those engaged by said general contractor for construction of the Project, on a craft by craft basis, meet the Boston Residents Construction Employment Standards, all as set forth in said Construction Employment Plan.

15. Boston Residents Employment Opportunity. The Hospital shall also formulate and submit, at least one month prior to the issuance of the building permit for the Project (or at such later time as may be accepted by the BRA), an Employment Opportunity Plan, which plan shall set forth the Hospital's good faith efforts to achieve a goal that fifty percent (50%) of the permanent employment opportunities (other than positions to be held by persons holding academic or

medical appointments) created by the Project shall be made available to Boston residents to the extent that the goal can in good faith be achieved without interfering with [the Hospital's Affirmative Action Plan], any collective bargaining agreements, or any other employment policies or agreements to which the Hospital is or may be a party.

16. Notices. All notices and other communications under this Agreement shall be in writing and mailed by certified or registered mail, return receipt requested, to the parties at the following addresses:

BRA: Boston Redevelopment Authority
Director's Office
City Hall Square
Boston, MA 02201

With a copy to:

Boston Redevelopment Authority
Chief General Counsel
City Hall Square
Boston, MA 02201

Hospital: New England Deaconess Hospital
185 Pilgrim Road
Boston, MA 02115
Attention: Roger A. Perry, Jr.
Senior Vice President

with a copy to:

Palmer & Dodge
One Beacon Street
Boston, MA 02108
Attention: James B. White, Esq.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be executed in their behalf by their respective officers thereunto duly authorized as of the day and year first above set forth.

Approved as to form:

BOSTON REDEVELOPMENT AUTHORITY

_____
Robert F. McNeil,
Chief General Counsel,
Boston Redevelopment Authority

By: _____
Stephen Coyle, Director,
Hereunto Duly Authorized

NEW ENGLAND DEACONESS HOSPITAL

By: _____
Hereunto Duly Authorized

EXHIBIT A

Description of Property

TRANSPORTATION ACCESS PLAN AGREEMENT

BETWEEN

THE CITY OF BOSTON TRANSPORTATION DEPARTMENT,

THE BOSTON REDEVELOPMENT AUTHORITY,

AND

NEW ENGLAND DEACONESS HOSPITAL CORPORATION

This Agreement is entered into as of this ___ day of _____, 1987, by and between the City of Boston Transportation Department (hereinafter referred to as "the City"), the Boston Redevelopment Authority (hereinafter referred to as "the BRA"), and New England Deaconess Hospital Corporation (hereinafter referred to as "the Hospital").

WITNESSETH THAT:

WHEREAS, the Hospital proposes to construct an approximately 250,000 square foot (gross floor area) medical (inpatient) facility (the "New Medical Facility") to consolidate and modernize the Hospital's patient care facilities on a tract of land located in Boston, Massachusetts, bounded by Pilgrim Road, Deaconess Road, Brookline Avenue, and other land owned by the Hospital; and

WHEREAS, a Transportation Impact Study and Access Plan dated _____, 1987, has been undertaken by Abend Associates, a copy of which Transportation Impact Study and Access Plan has been attached hereto as Exhibit A; and

WHEREAS, the Hospital acknowledges that potential traffic and parking impacts from the construction and operation of the New Medical Facility can be mitigated through a construction management plan and an access plan; and

WHEREAS, the City, the BRA and the Hospital desire to mitigate traffic and parking impacts from the construction and operation of the New Medical Facility;

NOW, THEREFORE, in consideration of the mutual promises herein, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

Section 1. Definitions

(a) "Agreement" shall mean this Transportation Access Plan Agreement. The Hospital intends to proceed with the Project, subject to issuance by the Massachusetts Department of Public Health of a satisfactory Determination of Need for the Project, and subject to any circumstances not currently anticipated by the Hospital. If the Hospital does proceed with the Project, it hereby agrees to do so in accordance with this Agreement.

(b) "Project" shall refer to the New Medical Facility to be constructed by the Hospital, which shall include new commercial (primarily retail) space along Brookline Avenue and which shall include glass-enclosed corridors constructed across Pilgrim Road connecting the New Medical Facility at all levels to the existing Farr Building medical facility at 185 Pilgrim Road, Boston, Massachusetts. The Project will also include the demolition of an existing Hospital

administration building and a one-story commercial building on Brookline Avenue.

(c) "Site" shall mean the approximately 61,000 square foot parcel of land located in Boston, Massachusetts, bounded easterly by Brookline Avenue, northerly by Deaconess Road, westerly by Pilgrim Road and the Farr Building property owned by the Hospital and southerly by other land owned by the Hospital. The description of the Site is more fully set forth in Exhibit B to this Agreement.

(d) "BRA" shall mean the Boston Redevelopment Authority, a body politic and corporate, organized under Massachusetts General Laws, Chapter 121B, with offices at One City Hall Square, Boston, Massachusetts 02201, its successors and assigns.

(e) "Certificate of Occupancy" shall mean a certificate of occupancy issued by the City of Boston Inspectional Services Department for the Project.

(f) "City" shall mean the Transportation Department of the City of Boston, its successors and assigns.

(g) "Hospital" shall mean New England Deaconess Hospital Corporation, a Massachusetts not-for-profit corporation, its successors and assigns.

(h) "Effective Date" shall mean the date as defined in Section 26 of this Agreement.

(i) "MASCO" shall mean Medical Area Service Company, a cooperative agency owned by the institutions in the Longwood Medical Area.

(j) "MBTA" shall mean the Massachusetts Bay Transportation Authority.

(k) "Term of this Agreement" shall mean the period of time from the Effective Date hereof to the date _____ years from the date of issuance of the initial Certificate of Occupancy.

(l) "Traffic Impact and Access Plan" shall mean the Transportation Impact Study and Access Plan dated September 18, 1987, prepared by Abend Associates, a copy of which has been attached hereto as Exhibit A and which is incorporated hereby by reference.

Section 2. Access/Circulation

1) The Hospital's main entrance will be relocated from the Farr Building at 185 Pilgrim Road to the New Medical Facility on Deaconess Road in order to improve accessibility to the Hospital. New connecting sidewalks will be constructed along Deaconess Road and Brookline Avenue adjacent to the Site. In addition, a new one-story commercial block with pedestrian entrances on Brookline Avenue will be constructed.

2) The Hospital will enter into an agreement with the City and the City of Boston Public Improvement Commission pursuant to which the Hospital will make land or rights in land available to the City for the construction of an additional southbound lane on Brookline Avenue between Deaconess Road and Francis Street in connection with the Project. The Hospital will undertake the construction of

this additional lane, as agent for the City, at the Hospital's sole cost and expense not to exceed $_____.

3) The Public Improvement Commission voted on September 10, 1987, to discontinue the portion of Pilgrim Road from Deaconess Road to Francis Street in order to accommodate the construction of the glass-enclosed corridors which will connect the Project to the existing Farr Building medical facility at 185 Pilgrim Road.

4) The Hospital will propose and support, if endorsed by the City, a prohibition of left turns from Deaconess Road onto Brookline Avenue.

5) The Hospital will propose and support, if endorsed by the City, making Pilgrim Road a two-way street northerly of Joslin Place to the Hospital's Pilgrim Sreet Garage.

6) The Hospital will review street conditions on its campus and consider other improvements and upgrades such as rounding corners in order to further improve the circulation of traffic.

Section 3. Parking

The Traffic Impact and Access Plan concludes that because the Project is primarily intended to replace and modernize existing obsolete programs and will not significantly increase the number of inpatient beds in the Hospital, the Project will not create a need for any additional parking spaces. Nonetheless, the Hospital will implement the following parking demand reduction management strategies in order to reduce existing parking demand:

(a) Require twenty to forty employees currently parking on campus to park off-campus in existing commuter lots to accommodate patient needs and to reduce peak hour trips. The spaces vacated by the employees will be reserved for outpatients who generally visit the Hospital at non-peak hours.

(b) Continue to subsidize four off-site parking facilities operated by MASCO, and to operate and utilize the Hospital's own off-site parking facility.

(c) Continue to participate in the MASCO shuttle bus program.

(d) Encourage Hospital employees to utilize the computerized carpool matching service offered by MASCO.

(e) Continue to offer and encourage vanpooling through Caravan for Commuters.

(f) Continue to offer Hospital employees MBTA passes at a 25% discount.

Section 4. Pedestrian Safety

As part of the construction of the Project, the Hospital will improve pedestrian connections in the area of the Project. These improvements will include:

(a) Construction of a new, more visible and accessible entrance to the Hospital on Deaconess Road;

(b) Construction of new pedestrian sidewalks adjacent to the Site on Deaconess Road and Brookline Avenue;

(c) Construction of a new pedestrian mall on the discontinued portion of Pilgrim Road; and

(d) Continued participation in the MASCO program to maintain outdoor lighting equipment around existing Hospital buildings to improve pedestrian safety.

Section 5. Truck Deliveries

In order to minimize traffic congestion caused by direct deliveries of Hospital supplies, the Hospital will relocate its primary bulk storage and warehousing facilities to an off-campus location. The majority of tractor-trailer deliveries will occur at this off-campus location. To the extent practical, supply and other deliveries will be made at night and at off-peak hours by shuttle van to the Hospital's facilities.

The Project will include loading bays located off Brookline Avenue. Routing deliveries will be made from the off-campus supply center to the New Medical Facility at these loading bays.

Section 6. Public Transportation

(a) The Hospital will encourage the use of public transportation by providing schedules for area transit services to employees and selling MBTA passes to construction workers and its own employees.

(b) The Hospital will continue to subsidize the cost of MBTA passes to its employees by a factor of 25%, subject to financial or other constraints.

Section 7. Ridesharing.

In order to promote ridesharing and alternate means of travel to the Site among employees at the Hospital, the Hospital shall engage in the following activities:

(a) Continuation of its participation in and support of the areawide MASCO carpool matching and transit services; and

(b) Promotion of carpooling and vanpooling within the Hospital itself, by such measures as the installation of a bulletin board to encourage employees to post notices of availability for carpooling.

Section 8. Transportation Coordinator

The Hospital will appoint a Director of Parking and Transportation who will serve as a Transportation Coordinator, and who will cooperate with the City in the execution of the obligations set forth in this Agreement and in the monitoring of the transportation impacts of the Project.

Section 9. Construction Management Plan

The Hospital will prepare a construction management plan which details measures to insure the maintenance of existing levels of service on adjacent roadways during the construction of the Project, and shall submit such plan to the City for approval by the City. Such approval shall be obtained before the commencement of construction on the Project. The construction management plan shall include the following measures:

1. Secure fencing, staging and bracing around the Project block, including sidewalks, to protect pedestrian

traffic along Brookline Avenue, Deaconess Road, and Pilgrim Road.

2. Establish construction site limits and access so as to minimize impacts on traffic on Deaconess Road and Brookline Avenue.

3. Schedule worker shifts so as to minimize conflict with the typical commuting periods.

4. Construction of the additional lane of traffic on the northerly side of Brookline Avenue will be completed prior to the closure of the portion of Pilgrim Road between Deaconess Road and Francis Street to vehicular traffic.

Section 10. Timetable

The Hospital shall perform its obligations under this Aqreement in a timely manner consistent with the progress of construction.

In addition, the Hospital shall commence the distribution of schedules for area transit service and the sale of MBTA passes no later than 60 (sixty) days following the commencement of construction at the Site and shall submit a construction management plan, and obtain approval of the same, in accordance with Section 9 of this Agreement.

Section 11. Defaults and Remedies

In the event that the Hospital shall fail to comply with or shall breach any provisions of this Agreement, the City and/or the BRA may institute any such actions and proceedings as the City and/or BRA may deem appropriate, including, but not limited to, an action to compel specific performance

and/or to collect any and all damages, expenses, losses and costs caused by such failure or breach, including legal expenses.

Section 12. Modifications to Project

In the event of a substantial increase in the gross floor area of the Project or a significant change in the primary programs and other uses associated with the Project occurring prior to the issuance of a Certificate of Occupancy (such as a proposal for the creation of a significant amount of new parking associated with the Project, or a substantial increase in the number of new inpatient beds to be included in the New Medical Facility), the City, the BRA and the Hospital will review such changes or proposed changes in the Project and may consider the impacts of such changes on the agreements contained herein, and whether amendments to this Agreement would be advisable.

If for any reason the discontinuance of Pilgrim Road, without payment by the Hospital of any kind, is not completed so as to be fully effective to the satisfaction of the Hospital, or if a building permit is not granted for the Project or any part thereof, or if construction of the Project or any part thereof is abandoned after a building permit is obtained, or if a building permit for the Project or any part thereof is revoked or lapses and is not renewed (any of such events being hereafter referred to as an "event of Project termination"), then the Hospital shall be fully released from and shall have no responsibility for the

agreements of the Hospital contained herein, including but not limited to the agreements contained in paragraph (2) of Section 2 hereof. If the Hospital shall have transferred to the City any interest in land in connection with the proposed construction of improvements to Brookline Avenue as provided herein prior to any event of Project termination, such transfer shall be deemed null and void and the City shall take any actions reasonably requested by the Hospital to rescind such transfer to the City (including executing, acknowledging and delivering a recordable instrument reconveying to the Hospital any interest in land previously transferred to the City).

Section 13. Records and Reports

(a) Project Records. The Hospital shall keep and maintain books, records and other documents regarding compliance with Sections 5, 6 and 8 of this Agreement, including such transportation data as trip generation and public transit usage by its employees, and shall make the same available at all reasonable times for inspection, copying, audit and examination by the City and BRA.

(b) Annual Report. The Hospital shall deliver an annual report detailing the Hospital's compliance with Sections 5 and 6 of this Aqreement to the City and the BRA within 60 days of the end of each calendar year during the Term of this Agreement.

Section 14. Access to Project

The Hospital agrees that any duly authorized representative of the City and/or the BRA shall, at all reasonable times, have access to any portion of the Project until the completion of the Project. Such access shall be preceded by reasonable advance notice delivered to the Transportation Coordinator or to the person designated to receive notices to the Hospital in Section 20 of this Agreement.

Section 15. Assumption of Liability

The Hospital, its trustees, directors, officers, agents and employees shall have no liability for any actions taken pursuant to this Agreement or otherwise in connection with the construction of improvements to Brookline Avenue, and the City shall assume the defense of and hold the Hospital, its trustees, directors, officers, agents and employees harmless from all suits and claims against them or any of them in any way arising out of any acts or omissions by the Hospital, its trustees, directors, officers, agents and employees in connection with such construction of improvements, except that nothing herein shall release the Hospital, its trustees, directors, officers, agents and employees or any of them, from gross negligence or willful misconduct.

Section 16. Assignment

The Hospital may assign its interest in this Agreement or any part thereof, but only subject to and by complying with the following conditions:

(1) At the time of the assignment, the Hospital shall not then be in default of the terms and conditions of this Agreement imposed upon the Hospital to such date;

(2) The assignee shall expressly assume and agree to perform and comply with all the covenants and provisions of this Agreement on the part of the Hospital; and

(3) There shall be promptly delivered to the BRA and the City the original or a duplicate original of the instrument or instruments containing such assignment to and assumption by the assignee.

Section 17. Waiver

No act by or on behalf of the City and the BRA shall be, or be deemed or construed to be, any waiver of any such requirement or provision, unless the same be in writing, signed by the City and BRA, and expressly stated to constitute such waiver. Any express waiver by the City and the BRA of any rights, terms or conditions of this Aqreement shall not operate to waive such rights, terms or conditions or any other rights, terms or conditions, beyond the specific instance of such waiver.

Section 18. Conflict of Interest

The Hospital covenants and agrees that it shall, in carrying out its responsibilities under this Aqreement, comply strictly with each and every provision of c. 268A of the General Laws (the Conflict of Interest Law) to the full extent of the applicability of said provisions to the Hospital.

Section 19. Successor and Assigns

The provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Hospital, the BRA and the City, and to any public body or bodies succeeding to the interests of the BRA and the City.

Section 20. Notices

All notices or other communication required or permitted to be given under this Agreement shall be in writing, signed by a duly authorized officer of the Hospital, or of the BRA and the City, and shall be deemed delivered if mailed, postage prepaid, by registered or certified mail, return receipt requested, to the principal office of the party to which it is directed, which is as follows unless otherwise designated by written notice to the other parties:

The Hospital:	The New England Deaconess Hospital 185 Pilgrim Road Boston, MA 02115 Attention: Office of the Executive Director
with copies to:	Palmer & Dodge One Beacon Street Boston, MA 02108 Attention: James B. White, Esq.
The City:	Boston Transportation Department Office of Commissioner City Hall Square Boston, MA 02201
with a copy to:	City of Boston Law Department City Hall Square Boston, Massachusetts Attention: City Corporation Counsel

The BRA: Boston Redevelopment Authority
Director's Office
City Hall Square
Boston, MA 02201

with a copy to: Boston Redevelopment Authority
Chief General Counsel
City Hall Square
Boston, MA 02201

Section 21. Amendment

This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the City, the BRA and the Hospital.

Section 22. Severability

Each and every covenant and agreement contained in this Agreement is and shall be construed to be a separate and independent covenant and agreement. If any term or provision of this Aqreement or the application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Aqreement or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term and provision of this Aqreement shall be valid and shall be enforced to the extent permitted by law.

Section 23. Execution in Counterparts

This Aqreement may be executed in any number of counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

Section 24. Table of Contents, Titles and Headings

The headings of the sections, subsections and paragraphs set forth herein are for convenience of reference only and are not a part of this Aqreement and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 25. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

Section 26. Effective Date

This Aqreement shall be deemed to become effective as of the date it shall be executed and dated by all parties.

Section 27. Expiration

This Aqreement shall terminate _____ years from the issuance of the initial Certificate of Occupancy and the provisions contained herein shall be null and void as of the date of termination.

Section 28. Mitigation Expenses

All mitigation measures undertaken pursuant to this Agreement shall, unless otherwise explicitly stated herein, be at the expense of the Hospital and no expense will be incurred by the BRA or the City with respect to such measures.

Section 29. Plan Update

The Hospital must obtain a Determination of Need ("DON") from the Massachusetts Department of Public Health in order to construct the Project, and the design program for the Project cannot be finalized until the DON has been obtained. Accordingly, the Hospital cannot submit Schematic Design Drawings for the Project to the BRA until after the DON has been obtained. It is currently anticipated that Schematic Design Drawings for the Project will be submitted to the BRA not earlier than March, 1989. The BRA design staff has approved the siting and conceptual design of the Project; however, the parties recognize that certain factors relating to the Project and/or relating to traffic and parking conditions in the area in which the Project is located may change during the period from the date of this Agreement to the time of Schematic Design submissions for the Project.

Accordingly, the Hospital agrees that it will undertake or commission a review of such changes and an update of the Traffic Impact and Access Plan if necessary to reflect such changes (the "Plan Update"), to be submitted to the BRA concurrently with the submission by the Hospital of materials for Schematic Design Review. If and as required by the results of the Plan Update, this Agreement will be amended. Such amendment, if any, may include appropriate modification of mitigation commitments made by the Hospital as contained herein.

Factors to be considered in connection with the Plan Update may include (but shall not necessarily be limited to): impacts of construction of the MASCO garage in the vicinity of the Hospital's campus; changes in or refinements of the Hospital's plans for management of parking; establishment by the BRA of policies concerning pricing or other aspects of off-street parking uses by institutions in the Longwood Medical Area; and proposals for elimination of curb-side parking on Brookline Avenue.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement in three (3) counterparts to be signed, sealed and delivered by their respective duly authorized representatives, as of the date first written above.

WITNESS:

CITY OF BOSTON TRANSPORTATION DEPARTMENT

_____

_____
Richard A. Dimino, Commissioner

BOSTON REDEVELOPMENT AUTHORITY

_____

By _____
Stephen Coyle, Director

THE NEW ENGLAND DEACONESS HOSPITAL CORPORATION

_____

By _____

Approved as to form:

_____
Chief General Counsel
Boston Redevelopment Authority

_____
Corporation Counsel
City of Boston